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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 000610

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E.O. 12958: DECL: 03/09/2019
TAGS: [PHUM](#) [PGOV](#) [KPAO](#) [KJUS](#) [TH](#)
SUBJECT: THAILAND: LESE MAJESTE DEBATE ENTERS PUBLIC
DOMAIN; WEBSITE MODERATOR ARRESTED UNDER COMPUTER CRIME ACT

REF: A. BANGKOK 520 (PERMSEC RAISES LESE MAJESTE)
[1](#)B. BANGKOK 325 (LESE MAJESTE ARRESTS)
[1](#)C. BANGKOK 140 (THAI COURT SENTENCES)

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Classified By: DCM James F. Entwistle, reason 1.4 (B) and (D)

SUMMARY AND COMMENT

[1](#)1. (C) Issues associated with implementation of the lese majeste (offense to the monarchy) provisions of the Thai Criminal Code continue to generate headlines and controversy. The police Crime Suppression Division (CSD) arrested Executive Director Chiranuch Premchaiporn of Prachatai.com, an online news website, on March 6 and charged her with violating the 2007 Computer Crime Act, apparently due to readers' comments posted to the site's Web board in 2008. Australian writer Harry Nicolaides, convicted for lese majeste in January, received a royal pardon February 18 and returned to Australia. Dual national academic Giles Ungpakorn fled Thailand for the U.K. February 9, fearing he would face similar charges, and launched an overt anti-monarchy, pro-republican campaign that would not have been possible in Thailand. A group of 50 foreign scholars called for open debate and reform of the lese majeste provisions of the criminal code in a March 4 video conference broadcast by a cautious Foreign Correspondents' Club of Thailand (FCCT).

[1](#)2. (C) Comment: The RTG's arrests of individuals under the lese majeste provisions of the criminal code and the 2007 Computer Crime Act are intended to protect the monarchy. Ironically, the heightened pace of arrests and charges, especially those involving prominent figures, may cause liberal-minded Thais to resent restrictions on speech and to associate the monarchy with acts of repression, weakening domestic support for the institution the legal actions seek to protect. This issue and the controversy it generates will likely continue through royal succession, as various parties position themselves for the inevitable redefinition of the

institution of monarchy and its role in Thai society once the revered King Bhumibol passes from the scene.

¶3. (C) Comment, cont: The RTG remains very sensitive to characterization by foreigners of implementation of lese majeste provisions as an issue of limiting freedom of speech, as the complaint by a top MFA official about coverage in our annual Country Report on Human Rights Practices indicates (ref A). The RTG is unlikely to alter its stance merely due to criticism or even well-meaning advice from abroad. We do not recommend the USG make any public comment on the application of the law or on individual cases, but will continue to raise our concerns in private and include relevant material in the annual Human Rights report. End Summary and Comment.

WEB EDITOR ARRESTED, WEB COMMUNITY WARNED

¶4. (C) Police officers from the Crime Suppression Division (CSD) arrested Executive Director Chiranuch Premchaiporn of Prachatai.com, an online news site not associated with any traditional media outlet, in a surprise raid on March 6 that rattled the online news community. Chiranuch was released on bail the same evening. The police cited Article 15 of the Computer Crime Act (CCA), which states that any service provider intentionally supporting or consenting to a number of offenses related to dissemination of material, including posting content harmful to national security, is subject to imprisonment of up to five years or a fine of up to 100,000 baht (\$2,777). The arrest featured prominently in Thai-language media reports on March 7, with many print editions featuring the story on the front-page. (Note:

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Prachatai.com was created in 2004 to counter Thaksin-era online censorship and perceived corporate and political bias in the print media. According to Chiranuch, the site has daily averages of 20-30,000 readers and 300,000 page hits. End Note.)

¶5. (C) Chiranuch told us on March 9 that the Ministry of Information and Communication Technology (MICT) had previously warned her staff about specific reader comments through a series of at least three formal letters -- in particular, if a posting had been permitted to remain online for more than 15 days. She said that the appearance of 10 officers on March 6 armed with search/arrest warrants came as a "shock" to her. She said that over 50 friends and employees gathered to monitor the police during the search at the office, and again during the interrogation at CSD headquarters. She said her friends were even permitted to observe the police copying her computer files to make sure "they did not insert any false evidence." Chiranuch told us she had cooperated fully with 10 previous summonses to the CSD headquarters regarding content, and that her team "tried so hard to monitor the Web board" to keep its content clean.

¶6. (C) The exact source of the charge remained unclear, but Chiranuch told us that the police-drafted statement she signed on March 6 contained an excerpt from a posting by Noppawan Bangudonsuk -- a young woman from a prominent family who was arrested on January 26 after posting second-hand anti-monarchy comments to her personal blog and to Prachatai.com. Noppawan was later released after posting bail of two million Baht (approximately \$57,000).

¶7. (SBU) Ironically, the raid on Prachatai.com took place on the heels of PM Abhisit Vejjajiva's pledge to ensure media freedom at Asia News Network's (ANN) 10th anniversary celebration in Bangkok earlier on March 6. (Note: ANN is an alliance of 20 newspapers in 17 countries, and claims to be the biggest media alliance worldwide in terms of readership. End Note.) Media coverage of the celebration quoted Abhisit as acknowledging Thailand's decline in media freedom, asserting the need to clarify standards for enforcement of

the lese majeste provision of law, and promising new laws and regulations under consideration will protect media professionals and increase information available to the public.

AUSTRALIAN PARDONED, RETURNED HOME

18. (C/NF) Australian author Harry Nicolaides received a royal pardon on February 18, and he returned home to Australia on February 21. The Thai Criminal Court had sentenced Nicolaides on January 19 to three years' imprisonment for lese majeste, based on his 2005 novel Verisimilitude, which had a one paragraph account of personal shortcomings of a fictional Crown Prince that closely tracked the life of the current Crown Prince. Nicolaides was promoted by some foreign commentators as a prisoner of conscience/free speech, but the Australian embassy walked a fine line in quietly working for his pardon, aware that some of Nicolaides' online writings seemed to embrace pedophilic tendencies.

DUAL NATIONAL ACADEMIC FLEES, LAUNCHES RED SIAM MANIFESTO

19. (C) Chulalongkorn political science professor Giles "Ji" Ungpakorn, charged with lese majeste on January 20 for his 2007 book "A Coup for the Rich," fled for the U.K. on February 9. In a meeting with us days earlier, dual UK-Thai citizen Ungpakorn appeared genuinely concerned for his well-being, and confided that the idea of spending any time in prison "was just horrible." Upon his arrival in the U.K., Ungpakorn released a political manifesto entitled "Red Siam."

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The manifesto attacked the historical role of the monarchy and the King personally and called for the establishment of a Thai republic; while the manifesto is in keeping with the tenor of Ji's Marxist writings over three decades, he had not previously attacked the monarchy so directly. Thai media reported that Foreign Minister Kasit Piromya on March 9 indicated publicly that Abhisit may engage the British government about the possibility of extraditing Ungpakorn on the charge of lese majeste during his visit to London to attend the G-20 summit on April 2.

INTERNATIONAL SCHOLARS CALL FOR OPEN DEBATE OF LAW

10. (C) The Foreign Correspondents Club of Thailand (FCCT) hosted its first web-based press conference on March 4, featuring U.S.-based professor Thongchai Winichakul and Australian professor Andrew Walker, who called for an open debate about the lese majeste provision of the criminal code.

The video conference was accompanied by the release of a draft letter from 50 international scholars/activists to Abhisit that urged the RTG to reform the law that generated "heightened criticism of the monarchy" and encouraged "frequent abuse... against political opponents." FCCT board chairman and journalist Marwaan Macan-Markar told us on March 4 that he worried that the FCCT could be charged for helping to disseminate views offensive to the monarchy.

KING'S VIEWS IGNORED IN POSITIONING FOR FUTURE?

11. (C) A number of international commentators, including a landmark December 2008 edition of the Economist, have criticized King Bhumibol for not intervening in the current burst of lese majeste activity. In fact, the King's most extensive comments on the matter, given during his annual birthday speech in 2005, put him on the side of minimal use of a tool that sources close to the palace claim that he and his daughter Princess Sirindhorn do not support. (note: The implied subtext of the December 2005 speech was that since the King himself was open to criticism, the PM at the time, Thaksin, should also be.)

¶12. (SBU) Select passages from the speech's lengthy discourse on the issue follow: "...when you say the King can do no wrong, it is wrong. We should not say that...actually I want them to criticize because whatever I do, I want to know that people agree or disagree...Actually I must also be criticized. I am not afraid if the criticism concerns what I do wrong, because then I know. Because if you say the King cannot be criticized, it means that the King is not human...If they criticize correctly, I have no problem."

¶13. (C) Others members of the royal family and those close to it, however, appear to have a different view, particularly of criticism not directed at the King but the institution itself and the other two individuals covered by lese majeste: the Queen and Crown Prince. While it has generally long been understood that foreigners who show remorse will be pardoned by the King, the standards for Thai citizens appear different. When a U.S. businessman privately raised concerns of how the cases against Nicolaides and Ji Ungpakorn were damaging Thailand's image with members of the Privy Council in early February, Privy Council President Prem replied: "There will be movement on Nicolaides soon. But Ji is Thai." Thai citizen and United Front for Democracy Against Dictatorship (UDD) supporter Bunyuen Prasetying was sentenced to six years' imprisonment in November 2008 after committing lese majeste; there is no indication at this time that a pardon is in the offing.

JOHN